

THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

BRANDEN TOOMBS,)
)
Plaintiff)
)
vs.) CIVIL ACTION FILE NO.:
)
)
KILOLO KIJAKAZI, ACTING)
COMMISSIONER OF)
SOCIAL SECURITY,)
)
Defendant.)

COMPLAINT

COMES NOW Branden Toombs, hereinafter referred to as Plaintiff, by and through his attorney, John V. Hogan, and brings this action against the Defendant as captioned, and respectfully shows:

1.

Plaintiff is a citizen of the United States of America and a current resident of DeKalb County, Georgia.

2.

The Defendant is the (Acting) Commissioner of the Social Security Administration.

3.

Jurisdiction of this Court is evoked under Sections 205(g) of the Social Security Act, as amended, (Section 405(g) of Title 42 of the United States Code) this being an action authorized by law for review of Defendant's final administrative decision denying Plaintiff disability benefits under the Social Security Act, as amended.

4.

Plaintiff applied for disability benefits under Title II of the Social Security Act by way of application filed June 7, 2021.

5.

Plaintiff alleged an onset of disability as of December 20, 2020.

6.

Plaintiff has not been engaged in substantial gainful activity at any time subsequent to the alleged onset date.

7.

Plaintiff met the insured status requirements for entitlement to disability benefits under Title II of the Social Security Act as of the alleged onset date and through the date of the administrative law judge decision.

8.

Plaintiff shows that at all times from the alleged onset date, he was under a disability as defined in sections 216(i) and 223(d) of the Social Security Act, as amended [42 U.S.C. §§ 426(i) and 423(d)]. Plaintiff was disabled due to severe medically determinable impairments including those found by the administrative law judge: diabetes, status post left humerus fracture and right ankle fracture, status post right shoulder dislocation, status post left humerus surgery, post-traumatic arthropathy of the left elbow, osteoporosis of the left forearm, post-traumatic arthritic changes of the right shoulder, osteoporosis of the right ankle, hypertension, heart palpitations, radial nerve palsy of the left upper extremity and hand, and transverse fractures of the lumbar, cervical, and thoracic spines.

9.

Plaintiff's aforesaid application was denied at the initial and reconsideration levels.

After an administrative law judge hearing, a written decision was issued December 23, 2022, denying the claim. This decision is identified as **BNC# 21QH917K88406.**

10.

Appeals council review was requested and denied by way of notice dated May 19, 2023.

Said decision is the final administrative determination of the Defendant.

11.

Defendant's decision is not supported by substantial evidence.

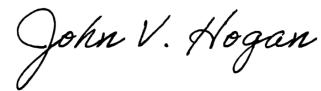
12.

Defendant's decision is based upon errors of law.

WHEREFORE, Plaintiff requests:

- (a) That this Court find there was not substantial evidence to support Defendant's decision that Plaintiff was not disabled, and reverse said decision;
- (b) That this Court find Defendant's decision that Plaintiff was not disabled is based upon error of law and reverse said decision; and
- (c) That this Court grant such other and further relief as appears just and proper.

Respectfully submitted this 17th day of July 2023.



John V. Hogan
GA Bar No. 359936
Attorney for Plaintiff

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